

<b>I. REAL PARTY IN INTEREST .....</b>	<b>1</b>
<b>II. RELATED APPEALS AND INTERFERENCES .....</b>	<b>1</b>
<b>III. STATUS OF CLAIMS.....</b>	<b>2</b>
<b>IV. STATUS OF AMENDMENTS.....</b>	<b>2</b>
<b>V. SUMMARY OF CLAIMED SUBJECT MATTER.....</b>	<b>2</b>
<b>VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....</b>	<b>4</b>
<b>VII. ARGUMENT.....</b>	<b>5</b>
<b>VIII. CLAIMS APPENDIX .....</b>	<b>19</b>
<b>IX. EVIDENCE APPENDIX .....</b>	<b>28</b>
<b>X. RELATED PROCEEDINGS APPENDIX .....</b>	<b>29</b>

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 29973
	:	
Thomas DISTEFANO III	:	Confirmation Number: 8542
	:	
Application No.: 09/589,551	:	Group Art Unit: 3622
	:	
Filed: June 7, 2000	:	Examiner: D. Lastra
	:	
For: METHOD FOR DEVELOPING ELECTRONIC DOCUMENTS PROVIDING E-COMMERCE TOOLS		

**SUPPLEMENTAL APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed September 6, 2005, and in response to the Examiner reopening prosecution in the Office Action dated June 18, 2007, wherein Appellant appeals from the Examiner's rejection of claims 1-21.

**I. REAL PARTY IN INTEREST**

This application is assigned to The Perfect Web Corporation by assignment recorded on June 7, 2000, at Reel 010861, Frame 0100.

**II. RELATED APPEALS AND INTERFERENCES**

Appellant is unaware of any related appeals and interferences.

### **III. STATUS OF CLAIMS**

Claims 1-21 are pending and four-times rejected in this Application. It is from the multiple rejections of claims 1-21 that this Appeal is taken.

### **IV. STATUS OF AMENDMENTS**

The claims have not been amended subsequent to the imposition of the Fourth Office Action dated June 18, 2007 (hereinafter the Fourth Office Action).

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claims 1, 13, and 19-21 are respectively directed to methods, computer program products, and a system for assisting a website designer establish an arrangement between a first website being designed and a second website. *The arrangement is established to market the first Web site at the second website upon activation of the first website on the Internet.* During the design of the first website, information indicating a type of marketing element can be received through a user interface. The information can specify, for example, marketing elements such as banner ads, links, or the like. The received information also can specify or identify the second website, at which the marketing element being described is to be displayed. The received information is saved within a database that is coupled to the user interface through which the information was received.

The marketing element, particularly one of the type indicated by the received information, can be obtained. Thus, if a banner ad was indicated, a banner ad marketing element can be obtained. In any case, the marketing element is displayed at the second website when the first website is activated with respect to the Internet. That is, when the first website being

developed is activated, the second website is altered to display the marketing element(s) specified by the developer when developing the first website.

Referring to specifically to Figure 20 and also to claims 1, 19, and 21, a method and system of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website is disclosed. The arrangement is established to market the first website at the second website upon the activation of the first website on the internet. At step 2006, during design of the first website, information indicating a type of an element for marketing is received at a user interface (page 49, line 23 through page 50, line 2 of Appellant's disclosure). At step 2020, the information specifies the second website at which the element is to be displayed. The information is saved at a first database that is coupled to the user interface (page 50, lines 15-17). The element for marketing of the type indicated is obtained, and the element for marketing is displayed at the second website when the first website is activated with respect to the internet (page 50, lines 17-19). The element for marketing includes at least one of a banner ad concerning the first website and a link to the first website (page 50 line 25 through page 51, line 13).

Referring to claim 8, a first display region is provided on the user interface that is capable of displaying a plurality of elements. A search request is received for available banner ad designs at the user interface, and a search is performed of information concerning a plurality of available elements stored on a second database in response to the search request, wherein a search engine program performs the search. The results of the search are displayed on the user interface, and a selection command is received at the user interface to select a first banner ad design from the results (page 51, lines 5-7).

Referring to Figure 21 and also to claims 13 and 20, a method of assisting a website designer in establishing an e-commerce feature on a first website being designed by the website designer for access by third parties upon the activation of the first website on the internet is disclosed. In step 2104, a selection of the e-commerce feature that is desired to be implemented on the first website is received at a user interface, and the e-commerce feature is at least one of a shopping cart and an auction (page 52, line 24 through page 53, line 14). In step 2114, information concerning a picture of a product desired to be sold using the e-commerce feature is received at the user interface (page 53, lines 8-9). In step 2116, information concerning a written description of the product is received at the user interface (page 53, lines 10-12). In step 2118, information concerning a price of the product is received at the user interface (page 53, lines 10-12). In step 2119, information concerning an identification number of the product is received at the user interface (page 53, lines 10-12). When the first website is activated on the internet, the e-commerce feature is displayed on the first website. The display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1, 4-12, 19 and 21 were rejected under 35 U.S.C. § 103 for obviousness based upon Mason et al., U.S. Patent No. 6,401,075 (hereinafter Mason), in view of Moore et al., U.S. Patent No. 6,330,575 (hereinafter Moore);

2. Claims 13, 16-18, and 20 were rejected under 35 U.S.C. § 103 for obviousness based Moore.

3. Claims 2 and 3 were rejected under 35 U.S.C. § 103 for obviousness based upon Mason in view of Moore and Wexler et al., U.S. Patent No. 5,960,409 (hereinafter Wexler); and

4. Claims 14 and 15 were rejected under 35 U.S.C. § 103 for obviousness based upon Mason in view of Moore and Hess et al., U.S. Patent No. 6,058,417 (hereinafter Hess).

## **VII. ARGUMENT**

### **THE REJECTION OF CLAIMS 1, 4-12, 19 AND 21 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MASON IN VIEW OF MOORE**

For convenience of the Honorable Board in addressing the rejections, claims 6-7 and 11-12, 19 and 21 stand or fall together with independent claim 1. Claims 4-5 and 8-10 each stand or fall alone.

#### **Claim 1**

Obviousness is a legal conclusion based on underlying facts of four general types, all of which must be considered by the trier of fact: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) any objective indicia of nonobviousness.<sup>1</sup> Upon reviewing the Examiner's statement of the rejection with regard to claim 1 on pages 3 and 4 of the Fourth Office Action, Appellant submits that the Examiner has failed to clearly designate the teachings in Moore being relied upon the statement of the rejection. In this regard, the Examiner's rejection under 35 U.S.C. § 103 also fails to comply with 37 C.F.R. § 1.104(c), which provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

---

<sup>1</sup> See *KSR Int'l v. Teleflex Inc.*, 550 U.S. \_\_\_\_ (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966); *Continental Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 1270, 20 USPQ2d 1746, 1750-51 (Fed. Cir. 1991); *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566-68, 1 USPQ2d 1593, 1594 (Fed. Cir. 1987).

The Examiner has not designated the particular parts of Mason being relied "as nearly as practicable." Instead, the Examiner's statement of rejection reproduces entire paragraphs of the claims and asserts that all the limitations in the particular paragraph are disclosed by certain cited passages within Mason. Although broadly identifying where the Examiner believes the claimed limitations are disclosed in Mason, the statement of the rejection fails to clearly identify many of the specific elements within Mason being relied upon in the rejection.

By not clearly indicating those specific elements being relied upon in the prior art to teach the invention, as recited in the claims, the Examiner has failed to fully establish the underlying facts regarding (1) the scope and content of the prior art and (3) the differences between the claimed invention and the prior art. Thus, the Examiner has improperly arrived at the legal conclusion that the claimed invention is obvious based upon the combination of Mason in view of Moore.

Not only has the Examiner not fully established the underlying facts regarding the scope and content of the prior art and the differences between the claimed invention and the prior art, the Examiner's analysis has mischaracterized those differences. Specifically, in the paragraph spanning pages 3 and 4 of the Fourth Office Action, the Examiner asserted:

Mason does not expressly teach during the design of the first website causing the display of the element for marketing at the second website when the first website is activated with respect to the internet.

As readily apparent from the Examiner's comments, the Examiner is associating the claimed "during design of the first website" with the claimed "causing the display of the element for marketing at the second website when the first website is activated with respect to the internet."

However, these two elements are not combined in this manner within claim 1. Instead, claim 1, in part, recites:

during design of the first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed;

...

causing the display of the element for marketing at the second website when the first website is activated with respect to the internet, wherein the element for marketing includes at least one of a banner ad concerning the first website and a link to the first website.

Thus, the Examiner has mischaracterized the differences between the claimed invention and the prior art.

To clarify the record, the passages within Mason cited to by the Examiner refer to a system in which (i) an advertiser uploads an original ad; (ii) the configuration of the original ad is compared to specifications of a online newspaper website; (iii) the original ad is modified to meet the specifications of the online newspaper website; and (iv) the modified ad is stored for placement. Completely absent from any of the passages cited by the Examiner is any discussion of the design of a first website. On the contrary, Mason is only concerned with the design of a advertisement which is to be placed in another website.

The Examiner further asserted the following in the paragraph spanning pages 3 and 4 of the Fourth Office Action:

However, Moore teaches a system for designing websites, where a first website is activated with respect to the Internet when said first website is posted to a hosting server (see Moore col 3, lines



20-45), as Applicant's specification page 33, lines 10-13 discloses that "posting" a website" and "activating a website" are equivalent terms. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason's advertiser's website would caused the display of a banner ad in a second website when said advertiser's website is activated with respect to the Internet, as taught by Moore in order to avoid posting banner ads in websites which would not provide any click-throughs [sic] revenue.

At the outset, Appellant notes that what the Examiner alleges that Mason fails to teach and what Moore teaches are two different things. Moreover, the Examiner's proposed benefit (i.e., avoid post banner ads in websites that do not provide click-through revenue) has been not identified by either Moore or Mason, and the Examiner has failed to establish that either Moore or Mason has identified a problem in which a common sense solution to that problem would lead to the Examiner's proposed benefit.

The Examiner asserted that "the display of the element for marketing at the second website [is caused] when the first website is activated with respect to the internet," is not disclosed by Mason. However, the passage within Moore cited by the Examiner merely teaches that a system includes a web page server and a second server in which a web page is hosted on the web page server, and the web page server includes a link to the second server. Completely absent, however, is any teaching regarding causing the display of the element for marketing at the second website when the first website is activated with respect to the internet, as claimed.

The Examiner's assertion regarding "equivalent terms" is a repeat of the Examiner's assertion found in the last full paragraph on page 3 of the Third Office Action dated June 6, 2006 (hereinafter the Third Office Action). This assertion was addressed in Appellant's First Appeal Brief, in which Appellant presented the following arguments. Specifically, the Examiner relied upon page 33, lines 10-13 of Appellant's specification, and page 33, lines 9-13 are reproduced below:

Once the design of the new website by the registered user is completed and the new website is posted/activated, the system 100 causes the selected websites of other registered users (i.e., the websites selected during the design of the new website) to display a link and/or banner ad concerning the new website.

It is readily apparent that one skilled in the art would not consider the terms "posted" and "activated" to be necessarily "equivalent," as asserted by the Examiner. For example, a website that is posted may not necessarily be activated since a separate activation step may be required after the website is posted. Thus, Appellant used the terms "posted" and "activated" as alternatives and not as equivalents (i.e., necessarily meaning the same thing). Despite presenting these arguments in the First Appeal Brief, the Examiner did not address these arguments in the Fourth Office Action.

The Examiner's initial analysis regarding Mason implied that the advertiser's website corresponds to the first website (i.e., the website being designed) and the online newspaper website corresponds to the second website (i.e., the website in which the element for marketing is to be displayed). In the Examiner's obviousness analysis, the Examiner asserted that "Mason's advertiser's website would caused the display of a banner ad in a second website when said advertiser's website is activated with respect to the Internet in order to avoid posting banner ads in websites which would not provide any click-throughs [sic] revenue." The Examiner, however, has failed to establish that either Moore or Mason identifies the problem of reduced click-through revenues because of banner ads that do not have an activated website. Moreover, the Examiner has not factually shown that the lack of an activated website would cause click-through revenue to not be generated.

Also, as previously noted, the "during design of the first website," as claimed, applies to a different limitation than that alleged by the Examiner. Thus, the Examiner's analysis has not shown that this limitation, upon considering the claimed invention as a whole, would have been obvious to one having ordinary skill in the art.

#### Claim 4

Dependent claim 4 recites, in part, the following limitation: "determining whether a reciprocal site for the display of at least one marketing element of a third party website exists in the first website being designed." On page 4 of the Fourth Office Action, the Examiner asserted that this limitation is disclosed by column 5, lines 15-25 of Mason. Appellant disagrees. This cited passage within Mason merely describes that a national advertiser can purchase advertising space on related or non-related web pages and that an intermediary company may purchase advertising space from online newspaper websites and then resell the space. Completely absent from this cited passage is a mention of "a reciprocal site" or "at least one marketing element of a third part website" or the "the first website being designed." Thus, the Examiner's statement of the rejection fails to establish that the combination of Mason and Moore teach or suggest the claimed invention, as recited in claim 4, within the meaning of 35 U.S.C. § 103.

#### Claim 5

Dependent claim 5 recites, in part, the following limitation: "causing the sequential display at the reciprocal site of the first website of a plurality banner ads respectively concerning a plurality of third party websites." On page 4 of the Fourth Office Action the Examiner cited

column 5, lines 15-25 and asserted that "the same argument made in claim 1 regarding this missing limitation is also made in claim 5.

Upon reviewing the passage cited by the Examiner, however, Appellant is unable to determine where Moore teaches the above-identified limitation. Specifically, there is no apparent disclosure within Moore of the claimed "sequential display" or "a plurality of banners ads respectively concerning a plurality of third party websites." Thus, the Examiner's statement of the rejection fails to establish that the combination of Mason and Moore teach or suggest the claimed invention, as recited in claim 5, within the meaning of 35 U.S.C. § 103.

#### Claim 8

On page 6 of the Fourth Office Action, the Examiner cited column 10, line 44 through column 11, line 15, and Figures 9-11 and generalized that Moore teaches a system of designing websites that includes display regions and selecting different layouts and images for the design of the webpage. A review of these cited passages and figures fails to yield any mention of a banner ad. Thus, the Examiner's statement of the rejection fails to establish that the combination of Mason and Moore teach or suggest the claimed invention, as recited in claim 8, within the meaning of 35 U.S.C. § 103. Appellant also notes that similar arguments were presented as to claim 8 in the First Appeal Brief, yet the Examiner did not address these arguments in the Fourth Office Action.

Claims 9 and 10

On pages 6 and 7 of the Fourth Office Action, the Examiner asserted that each of the five different steps recited in claim 9 are disclosed in column 11, lines 50-60 of Moore, which for ease of reference is reproduced below:

Each page created by the merchant can, as mentioned earlier, be modified. Style components can be added, deleted, moved, resized, etc. Another feature of the Development Tool is that it presents the page just as a Web customer will see it. This feature, called WYSIWYG for "what you see is what you get" allows the merchant to see, without publishing and browsing, what the published page will look like when it is published. Additionally, the Development Tool also provides a previewing option which uploads all of the pages and allows the merchant to view the entire Web site with a Web browser.

Upon reviewing this passage, Appellant is unable to determine where in this passage Moore discloses all of the limitations recited in claim 9. For example, this passage is silent as to display regions, and thus, cannot teach the claimed first and second display regions.

With regard to claim 10, in addition to citing the same passage, the Examiner also cited Figure 13. However, Appellant is unable to determine where in this passage and figure Moore discloses each of the limitations recited in claim 10. For example, the citations are silent as to "sonic effects." Thus, the Examiner's statement of the rejection fails to establish that the combination of Mason and Moore teach or suggest the claimed invention, as recited in claims 9 and 10, within the meaning of 35 U.S.C. § 103. Appellant also notes that similar arguments were presented as to claims 9 and 10 in the First Appeal Brief, yet the Examiner did not address these arguments in the Fourth Office Action.

**THE REJECTION OF CLAIMS 13, 16-18, AND 20 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MOORE**

For convenience of the Honorable Board in addressing the rejections, claims 13, 16-18,

and 20 stand or fall together with independent claim 1.

At the outset, Appellant notes that the present rejection is a repeat of the Examiner's rejection found on pages 8-12 of the Third Office Action. This rejection was responded to in the First Appeal Brief, and Appellant incorporates herein the arguments previously presented with regard to this rejection.

Failure to clearly designate teachings in applied prior art

At the outset, Appellant respectfully submits that the Examiner has failed to clearly designate the teachings in Moore being relied upon the statement of the rejection. In this regard, the Examiner's rejection under 35 U.S.C. § 103 also fails to comply with 37 C.F.R. § 1.104(c), which provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

The Examiner has not designated the particular parts of Moore being relied "as nearly as practicable." Instead, the Examiner's statement of rejection reproduces entire paragraphs of the claims and asserts that all the limitations in the particular paragraph are disclosed by certain cited passages within Moore. Although broadly identifying where the Examiner believes the claimed limitations are disclosed in Moore, the statement of the rejection fails to clearly identify many of the specific elements within Moore being relied upon in the rejection.

Failure to teach "during design of a first Web site"

As claimed, the method of independent claim 13 is while a first website is being designed by a website designer and independent claim 20 recites "*during design of the first website*, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed." To teach these limitations the Examiner cited column 7, lines 60-67 and column 8, lines 40-55 of Moore. Although column 8, lines 27-61 of Moore refers to a "Development Tool," which "allows the merchant to design, build, and publish a web site," Moore is silent as to when information is received at a user interface indicating a type of element for marketing that is to be displayed at a second website.

Failure to establish a proper rationale to modify Moore

Independent claims 13 and 20 recite "when the first website is activated on the internet ...," and the Examiner admitted on page 10 of the Fourth Office Action that "Moore does not expressly teach that said display of said element is done when the first website is activated with respect to the Internet." In attempting to establish a prima facie case of obviousness to modify Moore, the Examiner asserted the following with regard to claim 13:

Applicant's specification page 33, lines 10-13 discloses that "posting" a website" and "activating a website" are equivalent terms. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Moore's merchant website would displayed the commerce feature when said website is posted to a host server as posting and activating are equivalent terms are taught by Applicant's specification.

The Examiner's logic is flawed for several reasons. The Examiner has misinterpreted Appellant's specification. The Examiner has improperly relied upon Appellant's specification for

the motivation to modify Moore, and the Examiner has failed to establish a factual basis within the applied prior art for a realistic rationale to modify Moore.

The Examiner relied upon page 33, lines 10-13 of Appellant's specification, and page 33, lines 9-13 are reproduced below:

Once the design of the new website by the registered user is completed and the new website is posted/activated, the system 100 causes the selected websites of other registered users (i.e., the websites selected during the design of the new website) to display a link and/or banner ad concerning the new website.

It is readily apparent that one skilled in the art would not consider the terms "posted" and "activated" to be necessarily "equivalent," as asserted by the Examiner. For example, a website that is posted may not necessarily be activated since a separate activation step may be required after the website is posted. Thus, Appellant used the terms "posted" and "activated" as alternatives and not as equivalents (i.e., necessarily meaning the same thing).

Notwithstanding what Appellant has taught in the specification with regard to the relative meanings of the terms "activated" and "posted," the Examiner has failed to establish a common sense rationale to modify Moore. As discussed in In re Ruff<sup>2</sup>, equivalency cannot be based on the mere fact that the components at issue are functional equivalents. Furthermore, in In re Scott<sup>3</sup>, a decision of the Board was reversed on the basis that components that are functionally equivalent are not necessarily obvious in view of one another. Thus, the Examiner's equivalency argument, without anything more, is insufficient to establish obviousness.

---

<sup>2</sup> 256 F.2d 590, 118 USPQ 340 (CCPA 1958).

<sup>3</sup> 323 F.2d 1016, 139 USPQ 297 (CCPA 1963).



Therefore, for the reasons stated above, the Examiner's statement of the rejection fails to establish that Moore teaches or suggests the claimed invention, as recited in claims 13, 16-18, and 20, within the meaning of 35 U.S.C. § 103.

**THE REJECTION OF CLAIMS 2 AND 3 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MASON IN VIEW OF MOORE AND WEXLER**

For convenience of the Honorable Board in addressing the rejections, claims 2 and 3 stand or fall together with independent claim 1.

Claims 2 and 3 depend from independent claim 1, and Appellant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 1 for obviousness based upon Mason in view of Moore. The Examiner's tertiary reference of Wexler does not cure the argued deficiencies of the combination of Mason and Moore. Accordingly, even if one having ordinary skill in the art were motivated to combine the applied prior art, as suggested by the Examiner, the proposed combination of references would not yield the claimed invention. Appellant, therefore, respectfully submits that the imposed rejection of claims 2 and 3 under 35 U.S.C. § 103 for obviousness based upon Mason in view of Moore and Wexler is not viable and, hence, solicits withdrawal thereof.

**THE REJECTION OF CLAIMS 14 AND 15 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MOORE IN VIEW OF HESS**

For convenience of the Honorable Board in addressing the rejections, claims 14 and 15 stand or fall together with independent claim 13.

Claims 14 and 15 depend from independent claim 13, and Appellant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 13 for obviousness based upon Moore. The Examiner's secondary reference of Hess does not cure the argued deficiencies of Moore. Accordingly, the proposed combination of references would not yield the claimed invention. Appellant, therefore, respectfully submits that the imposed rejection of claims 14 and 15 under 35 U.S.C. § 103 for obviousness based upon Moore in view of Hess is not viable.

Claims 14 and 15 depend from independent claim 13, and Appellant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 13 for obviousness based upon Moore. The Examiner's secondary reference of Wexler does not cure the argued deficiencies of Moore. Accordingly, even if one having ordinary skill in the art were motivated to combine the applied prior art, as suggested by the Examiner, the proposed combination of references would not yield the claimed invention. Appellant, therefore, respectfully submits that the imposed rejection of claims 14 and 15 under 35 U.S.C. § 103 for obviousness based upon Moore in view of Hess is not viable.

#### Conclusion

Based upon the foregoing, Appellant respectfully submits that the Examiner's rejections under 35 U.S.C. § 103 are not factually or legally viable. Appellant, therefore, respectfully solicits the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

Application No.: 09/589,551

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 19, 2007

Respectfully submitted,

/Scott D. Paul/

Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

Phone: (561) 922-3845

CUSTOMER NUMBER 46320

## **VIII. CLAIMS APPENDIX**

1. A method of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the internet, the method comprising:

during design of the first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed;

saving the information at a first database that is coupled to the user interface;

obtaining the element for marketing of the type indicated; and

causing the display of the element for marketing at the second website when the first website is activated with respect to the internet, wherein the element for marketing includes at least one of a banner ad concerning the first website and a link to the first website.

2. The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

receiving at the user interface information concerning at least one of the website designer, a business of the website designer, and the first website;

performing a search of information on a second database having information concerning at least one of a plurality of third party website designers, a plurality of third party businesses and a plurality of third party websites;

identifying from the search at least one third party website to which the first website should be coupled for marketing purposes; and

providing information concerning the at least one third party website at the user interface.

3. The method of claim 1, further comprising:

during design of the first website, receiving information specifying a plurality of additional third party websites at which it is desirable to have the element displayed;

saving the information at the first database; and

causing the display of the element for marketing at each of the plurality of additional third party websites when the first website is activated with respect to the internet.

4. The method of claim 1, further comprising:

determining whether a reciprocal site for the display of at least one marketing element of a third party website exists in the first website being designed; and

creating the reciprocal site for the display of the at least one marketing element of the third party website when the reciprocal site does not yet exist in the first website being designed.

5. The method of claim 4, further comprising:

when the element for marketing the first website is a banner ad concerning the first website, causing the sequential display at the reciprocal site of the first website of a plurality banner ads respectively concerning a plurality of third party websites, when the first website is activated with respect to the internet.

6. The method of claim 4, further comprising:

when the element for marketing the first website is a link to the first website, causing the display at the reciprocal site of the first website of a plurality of links to the plurality of third party websites, when the first website is activated with respect to the internet.

7. The method of claim 1, wherein the element for marketing is the banner ad concerning the first website, further comprising:

determining whether the banner ad for the first website has already been designed; and

when it is determined that the banner ad for the first website has not yet been designed, displaying a message at the user interface indicating the necessity of designing the banner ad.

8. The method of claim 7, further comprising, when it is determined that the banner ad for the first website has not yet been designed:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements;

receiving a search request for available banner ad designs at the user interface;

performing a search of information concerning a plurality of available elements stored on a second database in response to the search request, wherein a search engine program performs the search;

displaying results of the search on the user interface; and

receiving a selection command at the user interface to select a first banner ad design from the results.

9. The method of claim 8, further comprising:

providing a second display region on the user interface, the second display region being capable of displaying the plurality of elements;

displaying the first banner ad design in the second display region;

receiving a first command to modify the first banner ad design in the second display region;

modifying the first banner ad design in response to the first command;

terminating the display of the second display region;

displaying the modified first banner ad design in the first display region, wherein the first display region is capable of displaying the first banner ad design in an interactive manner; and

saving the modified first banner ad design.

10. The method of claim 9, further comprising:

receiving at the user interface a command to preview the modified first banner ad design; and

providing a preview of the modified first banner ad design, wherein the preview allows for the display of all visual effects of the modified first banner ad design, and allows for the sounding of all sonic effects of the modified first banner ad design.

11. The method of claim 9, further comprising, prior to the saving of information concerning the modified first banner ad design:

displaying a prompt concerning payment;

receiving credit card processing information at the user interface; and

determining the adequacy of the credit card processing information.

12. The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements;

receiving a selection of a smart agent option at the user interface, the selection of which is indicative of a desire to establish the arrangement between the first website being designed by the website designer and the second website in order to market the first website at the second website upon the activation of the first website on the internet;

displaying a smart agent menu having a suggested marketing locations option, a create links option and a banner ad rotations option, wherein the create links option and the banner ad rotations option can be selected to indicate the type of the element for marketing.

13. A method of assisting a website designer in establishing an e-commerce feature on a first website being designed by the website designer for access by third parties upon the activation of the first website on the internet, the method comprising:

receiving at a user interface a selection of the e-commerce feature that is desired to be implemented on the first website, wherein the e-commerce feature is at least one of a shopping cart and an auction;

receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature;



receiving at the user interface information concerning a written description of the product;

receiving at the user interface information concerning a price of the product;

receiving at the user interface information concerning an identification number of the product; and

when the first website is activated on the internet, displaying the e-commerce feature on the first website, wherein display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product.

14. The method of claim 13, further comprising, prior to receiving at the user interface the selection of the e-commerce feature that is desired to be implemented:

displaying a list of at least one of a plurality of shopping carts and a plurality of auctions.

15. The method of claim 13, wherein the e-commerce feature that is selected is an auction, and the information concerning the price of the product concerns a reserve price.

16. The method of claim 13, wherein the information concerning the picture of the product is uploaded from a memory device at a website designer computer, and wherein the information concerning the written description, price and identification number of the product is received at the user interface into a form field.

17. The method of claim 13, further comprising, after the receiving of the information concerning the identification number of the product:

prompting for an input of a merchant account identifier;

when the merchant account identifier is received, saving the information concerning the selected e-commerce feature, the received information concerning the picture, written description, price and identification number of the product, and the merchant account identifier;

when an indication that no merchant account identifier exists is received, providing a merchant account information form, receiving merchant account information at the user interface, and sending the merchant account information to a merchant account vendor,

wherein, the e-commerce feature is only displayed on the internet when both the first website is activated on the internet and the merchant account identifier has been received.

18. The method of claim 13, further comprising:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements;

displaying the selected e-commerce feature including at least some of the information concerning the picture, written description, price and identification number of the product on the first display region,

wherein the first display region is capable of displaying the e-commerce feature in an interactive manner.

19. A computer-readable storage medium containing computer executable code for instructing at least one computer to perform the steps of:

during design of a first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at a second website, and information specifying the second website at which the element is to be displayed;

saving the information at a first database that is coupled to the user interface;

obtaining an element for marketing of the type indicated; and

causing the display of the element for marketing at the second website when the first website is activated with respect to the internet,

wherein the element for marketing includes at least one of a banner ad concerning the first website and a link to the first website.

20. A computer-readable storage medium containing computer executable code for instructing at least one computer to perform the steps of:

receiving at a user interface a selection of an e-commerce feature that is desired to be implemented on a first website, wherein the e-commerce feature is at least one of a shopping cart and an auction;

receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature;

receiving at the user interface information concerning a written description of the product;

receiving at the user interface information concerning a price of the product;

receiving at the user interface information concerning an identification number of the product; and

when the first website is activated on the internet, displaying the e-commerce feature on the first website, wherein display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product.

21. An internet-based system for assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the internet, the system including;

a server computer accessible by a plurality of registered user computers and a plurality of unregistered computers using the internet, wherein the server computer:

receives at a user interface displayed at one of the registered user computers information indicating a type of an element for marketing that is to be displayed at the second website, and

information specifying the second website at which the element is to be displayed;

saves the information at a first database that is coupled to the server computer;

obtains an element for marketing;

hosts the second website;

activates the first website on the internet by hosting the first website on the internet;

provides a web page for the second website to one of the unregistered computers; and

displays the element for marketing on the web page.

**IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

**X. RELATED PROCEEDINGS APPENDIX**

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.